

Internal distribution code:

- (A) [-] Publication in OJ
- (B) [-] To Chairmen and Members
- (C) [-] To Chairmen
- (D) [X] No distribution

**Datasheet for the decision
of 25 July 2019**

Case Number: T 1776/13 - 3.5.01

Application Number: 09179420.6

Publication Number: 2246813

IPC: G06Q30/00

Language of the proceedings: EN

Title of invention:

Method and system for improving personalization of advertising for mobile devices using peer rating

Applicant:

Samsung Electronics Co., Ltd.

Headword:

Improving personalization of advertising/SAMSUNG

Relevant legal provisions:

EPC Art. 123, 56

Keyword:

Inventive step - improved personalisation of advertisements based on ratings of peers (no - not technical) - reduction of network traffic (no - speculative and bonus effect)



Beschwerdekammern
Boards of Appeal
Chambres de recours

Boards of Appeal of the
European Patent Office
Richard-Reitzner-Allee 8
85540 Haar
GERMANY
Tel. +49 (0)89 2399-0
Fax +49 (0)89 2399-4465

Case Number: T 1776/13 - 3.5.01

D E C I S I O N
of Technical Board of Appeal 3.5.01
of 25 July 2019

Appellant: Samsung Electronics Co., Ltd.
(Applicant) 129, Samsung-ro
Yeongtong-gu
Suwon-si, Gyeonggi-do, 443-742 (KR)

Representative: HGF Limited
Saviour House
9 St. Saviourgate
York YO1 8NQ (GB)

Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 11 February
2013 refusing European patent application No.
09179420.6 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman W. Chandler
Members: N. Glaser
P. Schmitz

Summary of Facts and Submissions

- I. This appeal is against the decision of the examining division to refuse the European patent application No. 09179420.6 for lack of inventive step (Article 56 EPC). Claim 9 of the main request and of the first auxiliary request were both found to be an obvious automation of a business method of targeted advertisement using a well-known data processing system.

- II. In their decision, the examining division referred to the following documents:

D1: US2009/027223
D2: US2008/172291
D3: EP1995933.

- III. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the main request or the first auxiliary request, both filed with the statement setting out the grounds of appeal.

- IV. In an annex to a summons to oral proceedings, the Board informed the appellant of its preliminary opinion that claims 1 and 9 of the main and auxiliary request lacked an inventive step over D2 in combination with common general knowledge. Objections under Articles 123(2) and 84 EPC were also raised.

- V. In response to the summons, by letter dated 19 June 2019, the appellant withdrew the first auxiliary request and informed the Board that it would not be represented at the oral proceedings.

VI. The oral proceedings took place on 25 July 2019 in the appellant's absence. At the end of the oral proceedings the Chairman announced the decision of the Board.

VII. Claims 1 and 9 of the main request read as follows:

"1. An ad server (410) in a wireless communication network configured to transmit advertising content to a plurality of mobile devices (210) which have sent requests for advertisements to the ad server (410), the ad server (410) comprising:

a filter module (620) configured, for each request for an advertisement, to filter a plurality of advertisements based on meta data for each advertisement;

an ad decision module (630) configured, for each request for an advertisement, to further filter the plurality of advertisements based on an end user profile and ratings from a plurality of contacts on a contacts list of the mobile device which has requested the advertisement; and

an electronic storage medium (610) configured to store information about the plurality of advertisements."

"9. A method of targeting advertising for a plurality of mobile devices (210) in a wireless communication network, the method comprising the steps of:

receiving at an ad server (410) in the wireless communication network a plurality of advertisements from an advertising distributor (120);

*receiving at the ad server (410) end user ratings of the plurality of advertisements from a plurality of mobile devices (210); and
receiving at the ad server (410) requests for advertisements from a plurality of mobile devices (210);*

wherein for each request for an advertisement, the method further comprises:

filtering at the ad server (410) the plurality of advertisements based on meta data for each advertisement;

*further filtering at the ad server (410) the plurality of advertisements based on an end user profile and end user ratings from a plurality of contacts on a contacts list of the mobile device requesting the advertisement;
and*

transmitting a selected advertisement from the ad server (410) to the mobile device (210) requesting the advertisement."

Reasons for the Decision

1. Background of the invention
 - 1.1 The invention relates to the provision of personalised advertisements for mobile devices using peer ratings. A plurality of advertisements is filtered based on meta data for each advertisement, such as the genre of an advertisement, see paragraph [0032] of the published application, and further based on end user profiles, including demographic data, user interests, see paragraph [0033]. In addition, peer ratings are used to

refine the selection of the advertisement, see paragraphs [0035] to [0038].

- 1.2 A peer rating represents, according to paragraph [0036], an aggregation of ad ratings from one or more reviewers or it might be a straight average or mean of all available ratings for the advertisement. The reviewing is given by people from a user's contact list, representing his social contacts network, such as email contacts, address book entries, telephone contacts, and are collected at the ad server, see paragraph [0027].
- 1.3 A mobile user who views an advertisement on his mobile device, according to paragraph [0027], is given the opportunity to rate it. Ratings from a plurality of mobile devices are collected at the ad server which disseminates them. Reviews are given by mobile users who are part of a social contacts network within a wireless communication network. An advertisement can be displayed on the mobile device together with its peer rating, depicted as graphical symbols, such as stars, asterisks, circles, etc., see paragraph [0029].
- 1.4 The purpose of the invention is, according to paragraph [0018], to drive up a mobile viewer's response to an advertisement by showing interest information about the advertisement from his peers. Social ranking mechanisms influence the selection of advertisements on the ad server.

Main request

2. The claims of the current main request correspond to those of the refused main request filed on 18 December 2012 with the following amendments in system claim 1

and corresponding amendments in method claim 9:

a) the ad server is now configured to transmit advertising content to *"a plurality of mobile devices which have sent requests for advertisements to the ad server"*;

b) the (first) mobile device is now identified throughout the claims as *"the mobile device which has requested the advertisement"*;

c) the filter module and the ad decision module of the ad server are now configured to operate *"for each request for an advertisement"*.

3. The appellant argued that amendments (a) to (c) make it clear that the ad server was arranged to serve a plurality of mobile devices which have requested an advertisement. This underlined the ability of the ad server of the invention to handle a large number of requests. The server accurately filtered advertisements such that fewer advertisements needed to be transmitted over the network to achieve a predetermined advertising response rate. The use of ratings from contacts expanded the range of data used to select an advertisement.

4. Article 123(2) EPC

4.1 Claims 1 and 9 stipulate that each mobile device of a plurality of mobile devices takes an *active part* in *"requesting"* an advertisement, which is then transmitted from the ad server to the mobile device. Handling requests from a "plurality of mobile devices" seems to imply that the ad server is specifically configured to handle a large number of requests.

- 4.2 Furthermore, claims 1 and 9 stipulate that (only) specific ratings are used, namely those from contacts on a contact list.
- 4.3 In the embodiment, paragraphs [0019] to [0030], there is no disclosure that an advertisement is requested by a mobile device or even by a plurality of mobile devices. Instead, an advertisement is transmitted to a single mobile device based on filtering criteria without the existence of such a request.
- 4.4 Only the embodiment in Figure 6, paragraphs [0031] to [0038], in particular paragraph [0032], mentions that a user can make a request to the ad server for a particular genre of advertisement, but not for an individual advertisement. The provision of a particular genre of advertisement is an important feature, because a user can opt-in and opt-out for certain types of advertisements; this information is stored as part of the user profile.
- 4.5 Regarding the "rating feature", the application explains in paragraph [0034] that "peer ratings" are used to improve ad selection. Such a "peer rating" represents an aggregation of ad ratings from one or more reviewers. The reviewers refer to any customer who has viewed and rated the advertisement in question. However, the reviewers are not limited to the contacts on a contact list of the particular customer.
- 4.6 In conjunction with paragraphs [0029] and [0030], it may be concluded that a customer rating may or may not be part of a rating depicted together with an advertisement. However, there is no basis in the application as filed for the feature that advertisements are filtered based on ratings from a plurality of

contacts on a contact list of a customer (mobile device having requested the advertisement).

If this were the case, hypothetically speaking, then the ad server would have needed to collect those ratings in advance, prior to their use, from the contacts on a contact list, but this is also not disclosed in the application. The application discloses to use peer ratings of each advertisement to improve ad selection, but omits to provide further details about the nature of these "peer ratings".

4.7 The Board therefore concludes that claims 1 and 9 extend beyond the content of the application as filed (Article 123(2) EPC).

5. Article 56 EPC - Claim 1

5.1 For the sake of Article 56 EPC the Board interprets claim 1 of the main request in a broad sense, in that the ad server is configured to filter advertisements and to decide the "best" fitting advertisement based on end user profile and collected ratings. Whether or not the number of requests from a plurality of mobile devices may have an impact is questionable.

5.2 The Board agrees with the appellant that D2 represents the closest prior art. D2 discloses the selection of first data items (content) to be sent to a user (customer) partly based on the second data items (ratings) of first data items. The delivered content includes advertising and promotional material. Users (customers) rate the received content and provide feedback. According to paragraph [0042], a "user" refers to a vendor who delivers promotional content, a "customer" utilises services provided through a mobile

device, an "audience" is a group of customers and "content" refers to advertising, marketing promotions or any other communication between users and customers. Having defined a target audience based on profiles, interests and eligibility, see paragraphs [0089] and [0098], content, including commercial messages ("advertisements"), see paragraphs [0103] and [0122], are tailored to the target audience based on age, gender, interests/hobbies. This equates to the claimed profile and meta data which are used to filter advertisements.

- 5.3 The Board does not agree with the appellant that D2 fails to disclose (a) the selection of first data items for transmission to a plurality of mobile devices based partly on second data items acquired from (b) contacts on a contact list of the mobile devices which have requested first data items. The appellant even argued that D2 does not disclose that a user has contacts (b) at all.
- 5.4 Concerning (a), D2 discloses a plurality of mobile devices. The customer interface of D2 includes hand-held devices, PDA devices, see paragraph [0047]. Content is assembled at the server prior to delivery to customers or other target audience, see paragraph [0101].
- 5.5 Concerning (b), D2 proposes a "mobile rating system", see paragraph [0132], which allows customers to identify categories of content and to indicate whether they are interested in such content (opt-in) or not (opt-out). Customers are also asked to rate the content viewed on their mobile device or to provide other feedback, see paragraph [0134]. These ratings are collected and stored at the server. They can be relayed

back to a particular user and can be used for *"improvements in the delivery of content by the system"*. Additional incentives can be sent to users based on such ratings.

5.6 D2 further discloses that customers can share content, *on which they are enthusiastic about*, with friends, family members, or associates, see paragraph [0133], or a predetermined list of friends, on the phone directory of the mobile user, see paragraph [0135]. Paragraph [0136] explicitly states that D2 aims at delivering content to *as many potentially interested customers as possible*, and that an incentive system can be itself tied to the delivery of content to contacts of the customer.

5.7 The Board therefore does not agree with the appellant that D2 is limited to the selection of content for transmission based only on the ratings of previous contents transmitted to a particular customer. As a matter of fact, when storing ratings at the server, D2 also stores ratings from a plurality of contacts on a contact list.

5.8 The difference between D2 and claim 1 resides in the ad decision module which applies the ratings within the filtering process immediately after having applied meta data, for example, the genre of advertisements, see paragraph [0032]. D2 collects ratings at the server and uses them for the delivery of additional information, see paragraph [0113].

5.9 The Board does not consider the achievement of an improved personalisation of advertisements based on peer ratings to be a technical problem, but rather a business problem. The solution of the invention to

filter advertisements based on various types of customer data, such as meta data, end user profile and peer ratings to achieve an improved selection of advertisements is a non-technical solution to a non-technical problem. This cannot support inventive step (Article 56 EPC).

5.10 There is no explicit statement in the application that the ad server is *specifically configured* to handle a large number of requests. A possible reduction of network traffic due to a more precise selection of content is therefore speculative and would, in any case, merely be a bonus effect.

6. Article 56 EPC - Claim 9

6.1 Claim 9 of the main request differs from claim 1 in that it defines the additional features of receiving at the server advertisements from an advertising distributor, receiving of end user ratings and the transmitting of a selected advertisement to the mobile device requesting it.

6.2 These additional features do not lead to inventive subject-matter either because they are known from D2; the receiving of ratings and the transmitting of advertisement is disclosed in paragraphs [0134] to [0135]. The provision of advertisements from an advertisement distributor does not add technical matter which could further distinguish claim 9 from the prior art.

6.3 Claim 9 therefore does not involve an inventive step.

6.4 Accordingly, neither claim 1 nor 9 of the sole request are allowable.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



T. Buschek

W. Chandler

Decision electronically authenticated